

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALVAIR DESOUSA : CIVIL ACTION
: :
v. : No. 11-3237
: :
THE CITY OF PHILADELPHIA, et al. : :

ORDER

AND NOW, this 3rd day of December, 2012, it is ORDERED Defendants Philadelphia District Attorney's Office and Assistant District Attorney (ADA) Marian Braccia's Motion to Dismiss Plaintiff's Complaint Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (Document 18) is GRANTED. The Complaint is DISMISSED with prejudice against the District Attorney's Office. DeSousa's claims against ADA Braccia in her official capacity and his malicious prosecution claim against ADA Braccia in her individual capacity are also DISMISSED with prejudice. Insofar as DeSousa seeks to assert a claim against ADA Braccia based on her alleged involvement in an attack on DeSousa by police officers, this claim is DISMISSED without prejudice to DeSousa's right to file an Amended Complaint on or before December 21, 2012, which describes how Braccia was personally involved in the attack. If DeSousa fails to file an Amended Complaint within the time permitted, this claim will also be dismissed with prejudice.

It is further ORDERED DeSousa's Motion for Reconsideration, Discovery and Transcripts (Document 17) is DENIED. Insofar as DeSousa seeks to compel discovery from the City of Philadelphia, the motion is denied without prejudice to DeSousa's right to pursue discovery from the City in accordance with the Federal Rules of Civil Procedure.

BY THE COURT:

/s/ Juan R. Sánchez
Juan R. Sánchez, J.